

05.05.03.00

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 05 RENTAL HOUSING PROGRAMS

Chapter 03 Rental Allowance Program

**Authority: Housing and Community Development Article, Title 4, Subtitle 14,
Annotated Code of Maryland**

05.05.03.01

.01 General.

These regulations prescribe the policies, procedures, and authorizations for a program of housing assistance payments.

05.05.03.02

.02 Objective.

The basic objective of the Program is to fund, either directly or by grants to eligible grantees, monthly housing assistance payments on a short term basis to those income eligible persons or households that are homeless or at risk of homelessness. It is a goal of the Program that the housing assistance payments will help these homeless or at risk of homelessness persons and households to attain self-sufficiency.

05.05.03.03

.03 Definitions.

A. The terms appearing in the Act shall have the meanings defined there and, in addition, the meanings used in these regulations.

B. Terms Defined.

(1) "Act" means Housing and Community Development Article, Title 4, Subtitle 14, Annotated Code of Maryland.

(2) "Administration" means the Community Development Administration, an agency in the Division of Development Finance of the Department.

(3) "Application" means the application submitted by prospective recipients for housing assistance payments.

(4) "At risk of homelessness" means facing the possibility of homelessness and includes:

(a) Situations in which the lower income household is about to lose its housing either:

(i) Through destruction, damage, or other means such that the housing is in a condition that is unusable or threatens the household's health and safety; or

(ii) Because of potential or actual eviction as the result of an inability to pay rent, court order to vacate, or other reason beyond the recipient's control; and

(b) Situations in which all of the following requirements for recipient eligibility are satisfied:

(i) A recipient is working or participating in a work activity as defined in Human Services Article, §5-301(h), Annotated Code of Maryland;

(ii) A recipient's lack of financial resources is jeopardizing the recipient's ability to pay rent; and

(iii) A recipient has received Temporary Cash Assistance within 12 months before certification to participate in the Program, currently receives Temporary Cash Assistance, or is eligible to receive Temporary Cash Assistance.

(5) "County" means any county or Baltimore City.

(6) "Department" means Department of Housing and Community Development, a principal department of the State.

(7) "Doubled up" means a situation in which individuals are unable to maintain their housing and are forced to stay with a series of friends or extended family members.

(8) "Dwelling unit" means a room, including a hotel or motel room, apartment, house, or mobile home.

(9) "Eligible dwelling unit" means a dwelling unit that:

(a) Is subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program; or

(b) Meets the dwelling unit standards established by the Secretary in accordance with Housing and Community Development Article, §4-1403, Annotated Code of Maryland.

(10) "Eligible grantee" means a:

(a) Political subdivision;

(b) Housing agency, authority, or department of a political subdivision; or

(c) Nonprofit organization.

(11) "Grant" means the funds awarded by the Department to a grantee from available Program funds.

(12) "Grant application" means the application for grant funds submitted by an eligible grantee to the Department that the Department may require for use in implementing the proposed local program of housing assistance payments to recipients occupying dwelling units within a political subdivision's geographic area.

(13) "Grantee" means an eligible grantee that receives a grant from the Department under the Program.

(14) "Homeless" means the condition of being without permanent housing and includes the following:

(a) Living on the streets;

(b) Staying in a shelter, mission, temporary single room occupancy or transitional housing facility, abandoned building or vehicle, or any other unstable or nonpermanent situation;

(c) Living doubled up; or

(d) Being released from a facility or program, such as a foster care program, without a stable housing situation to which the person can return.

(15) "Housing assistance payments" means the rental allowance payments or monthly payments that:

(a) Are given to recipients by a grantee or by the Department in accordance with the provisions of Regulation .07 of this chapter; and

(b) May be used to pay:

(i) Rent;

(ii) Security deposits;

(iii) Utilities; and

(iv) Housing-related expenses.

(16) "Housing-related expenses" means expenses connected with an eligible dwelling unit, including:

(a) Renter's insurance; and

(b) Moving expenses.

(17) "Local program" means the system adopted by each grantee under the Program of administering and distributing housing assistance payments to recipients.

(18) "Lower income household" means an individual or a group of individuals who reside or intend to reside together whose annual income does not exceed:

(a) 30 percent of the State or area median income, whichever is higher; or

(b) A lower limit established by the Secretary in accordance with Housing and Community Development Article, §4-1403, Annotated Code of Maryland.

(19) "Nonprofit organization" means a corporation, foundation, or other legal entity that is exempt from federal income tax under §501 of the Internal Revenue Code.

(20) "Political subdivision" means any municipal corporation in Maryland subject to the provisions of Article XI-E of the Constitution, the Mayor and City Council of Baltimore, and any of the 23 counties in Maryland.

(21) "Program" means the Rental Allowance Program mandated by the Act.

(22) "Recipient" means a lower income household which receives housing assistance payments.

(23) "Secretary" means the Secretary of Housing and Community Development.

(24) "Temporary Cash Assistance" means a form of cash assistance provided to one or more eligible individuals for whom cash assistance has been authorized by the Maryland Department of Human Resources under the Family Investment Program.

(25) "Undue hardship" means those situations when the termination of housing assistance payments would immediately render the recipient homeless or at risk of homelessness.

05.05.03.04

.04 Eligible Grantees.

A. For each political subdivision's geographic area, the Department shall make one grant to an eligible grantee.

B. Any political subdivision not covered or proposed to be covered by the grant of another eligible grantee is eligible for a grant.

C. A political subdivision shall administer its own local program unless the political subdivision notifies the Department that it does not want to administer the local program.

D. If a political subdivision does not want to administer the local program, a housing agency, authority, or department of the political subdivision may administer the local program.

E. If the housing agency, authority, or department of the political subdivision does not want to administer the local program, a nonprofit organization, with the endorsement of the political subdivision, may apply to the Department to administer the local program.

05.05.03.05

.05 Unsatisfactory Performance by a Grantee.

A. Based on a grantee's prior performance in distributing grant funds to eligible recipients, the Department may conclude that the grantee is not administering its local program in a satisfactory manner.

B. In reaching this conclusion, the Department shall consider the grantee's failure to utilize grant funds in a timely manner or to submit required reports to the Program in a timely manner. The Department may consider other factors, including the grantee's:

(1) General administration of the local program;

(2) Adherence to the parameters of the local program established in its grant application; and

(3) Effectiveness in meeting the needs of the homeless or those at risk of homelessness in the grantee's geographic area.

C. If the Department concludes that the grantee is not performing in a satisfactory manner, the Department may cancel its current grant agreement with the grantee or decline to enter into a new grant agreement with the grantee.

D. The Department shall then notify other eligible grantees of the availability of grant funds for that geographic area.

E. Notification may be by notice in newspapers with circulation in the grantee's geographic area, direct notice, including electronic or regular mail, posting to the Department's website, or other methods selected by the Department. Applications for these grant funds will be processed in accordance with this chapter.

F. Reconsideration.

(1) A grantee may request reconsideration of the Department's decision to cancel or decline to enter into a new grant agreement by submitting a written request, to the Secretary, that is received within 30 days following the date of the Department's notice. The request for reconsideration shall address each reason for the Department's decision to cancel or decline to enter into a new grant agreement and provide documentation supporting the reasons for reconsideration of the issues. The Secretary shall respond in writing to the applicant's request for reconsideration within 30 days of receipt by the Secretary of the request for reconsideration.

(2) An initial decision by the Department or reconsideration by the Secretary of the Department's decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

05.05.03.06

.06 Eligible Recipients.

An eligible recipient shall:

A. Be a lower income household;

B. Be homeless or at risk of homelessness and have insufficient resources to secure permanent housing and have the capacity to maintain independent living quarters

C. Meet additional criteria established by the grantee, provided the criteria have been approved by the Department.

05.05.03.07

.07 Housing Assistance Payments.

A. Program funds shall be used to provide housing assistance payments in monthly amounts as determined by the Secretary to recipients occupying eligible dwelling units and to reimburse grantees for a portion of the administrative costs associated with grant funds received under the Program, in amounts established by the Program. Housing assistance payments may be applied only towards the monthly payment of rent and, when approved by the grantee, for the payment of a required security deposit, utilities, and housing-related expenses for an eligible dwelling unit.

B. Housing assistance payments shall be made for a term not to exceed 12 consecutive months. Grantees shall establish that a recipient has arranged to occupy an eligible dwelling unit before the recipient receives any portion of a housing assistance payment. A recipient's housing assistance payment may be extended for additional periods not to exceed 6 months each if the Secretary or the Secretary's designee determines that undue hardship would result if the housing assistance payment is terminated. Each request for an extension shall be supported by the grantee's case evaluation of the recipient made by the grantee or, if the recipient has received housing assistance payments directly from the Department, the Department's case evaluation, and shall consider the following factors, which shall also be considered by the Secretary in making the determination:

- (1) The income of the recipient;
- (2) The availability of alternative housing; and
- (3) The progress, ability, and efforts of the recipient to secure permanent affordable housing.

05.05.03.08

.08 Eligible Dwelling Units.

A. Housing assistance payments shall be made only to recipients who have rented eligible dwelling units.

B. Dwelling units that are not already subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program, shall be inspected for conformance with the requirements of this regulation. In addition, dwelling unit owners shall maintain the dwelling units so as to comply with the requirements of this regulation. This requirement shall be enforced either by providing for reduction or abatement of housing assistance payments pending the correction of any discovered nonconformance.

C. Except in extraordinary circumstances as determined by the Department, a recipient may not rent an otherwise eligible dwelling unit if the recipient or the recipient's close relative, including a spouse, parent, child, brother, sister, aunt, uncle, or grandparent, has an ownership or other financial interest in the dwelling unit.

05.05.03.09

.09 Grant Applications.

A. The Department may establish application forms and procedures for distribution of grants. These forms and procedures may be amended from time to time and shall be binding on all potential grantees.

B. If the Department requires an application for a grant, the application shall be made upon a standard grant application form prescribed or approved by the Department. Each grant application shall include sufficient information and documentation to evaluate the eligibility of the proposed local program. The Department may refuse to consider incomplete grant applications.

C. The Department shall enter into a grant agreement with each grantee that operates the Program.

05.05.03.10

.10 Grant Fund Allocations.

A. The Secretary shall establish a procedure for distributing grant funds that takes into consideration the need to serve eligible recipients on a Statewide basis.

B. The Secretary, in establishing the method of distributing grant funds, shall take into consideration for each political subdivision:

- (1) The number of lower income renter households;
- (2) The number of lower income renter households that spend more than 50 percent of their income on rent;
- (3) The shortage of affordable and available housing; and
- (4) Other factors that the Secretary considers relevant, which may include the following:
 - (a) A grantee's prior performance in distributing grant funds to eligible recipients; and
 - (b) The waiting list or pipeline of eligible recipients in a political subdivision.

C. Any allocated funds not used by the grantees for housing assistance payments or permitted administrative costs shall be returned to the Department for reallocation to other grantees or for direct disbursement by the Department in the form of housing assistance payments to an eligible recipient.

D. The Department may retain funds allocated in any fiscal year for housing assistance payments to eligible recipients on a Statewide basis. These funds shall be distributed by the Department for housing assistance payments in the following ways:

- (1) Directly to eligible recipients; or
- (2) Through a grantee.

E. The Department may determine the particular priorities for which the Department intends to give special consideration in funding. The Department shall notify grantees when it retains funds. Grantees may also inquire of the Department concerning the availability of such funds.

05.05.03.11

.11 Local Program Selection.

In addition to the factors listed in Regulation .10B of this chapter, the Department, in deciding to award a grant, will take into account the willingness of the grant applicant to contribute administrative costs and the degree to which the grant to the grant applicant contributes to geographic distribution of Program funds Statewide. The Department may also take into account the following factors:

- A. The extent to which the grant applicant has other available social service programs that it will integrate with the local program and the innovativeness of the local program;
- B. The level of experience, capability, and commitment of the grant applicant to initiate and administer the program; and
- C. Any other factors deemed relevant by the Department.

05.05.03.12

.12 Administration.

A. The Department, if it administers the Program directly, and the grantees shall use the Department's standard form documents as required by the Department.

B. Grantees shall maintain accurate financial records, in a form acceptable to the Department, of all transactions which relate to the grant, and shall make these records available to the Department for review on request.

C. Grantees shall make their records, administrative offices, and personnel, whether full-time, part-time, consultants, or volunteers, available to the Department upon request. The Department may conduct visits before, during, or after any grant period.

D. Grantees shall submit reports to the Department at such times and containing such information as may be required by the Department.

05.05.03.13

.13 Hearings.

A. A recipient whose benefits are terminated by a grantee before the expiration of the term established by a grantee under Regulation .07B of this chapter has a right to a hearing before the grantee and may appeal any decision to the Secretary.

B. If requested by a recipient, a grantee shall hold a hearing at which a recipient and a grantee's local program may:

- (1) Call witnesses;
- (2) Offer evidence, including rebuttal evidence;
- (3) Cross-examine any witness another party calls; and
- (4) Present argument and summation.

C. A hearing shall be under oath and recorded.

D. A grantee's decision may be appealed on the record to the Secretary not later than 10 business days from the date of the decision. A written transcription of the hearing shall be paid for by the Department. The Secretary, or the Secretary's designee, shall render a decision that is final and not appealable.

E. If the Department terminates the benefits of a recipient whose benefits are distributed directly to the recipient by the Department and not through a grantee, the recipient has a right to a hearing before the Secretary. The Secretary may delegate the authority to conduct the hearing to the Office of Administrative Hearings. The Secretary may also delegate to the Office of Administrative Hearings the authority to issue the final administrative decision of the Department, under State Government Article, §10-221, Annotated Code of Maryland.

05.05.03.14

.14 Nondiscrimination.

A. Grantees may not discriminate against any person on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended, or other similar federal laws, in any aspect of the local program.

B. Each grantee shall comply with all applicable federal, State, and local laws and Departmental policies and programs regarding discrimination, equal opportunity in employment, housing, and credit practices, and drug and alcohol free workplaces, including:

- (1) Titles VI and VII of the Civil Rights Act of 1964, as amended;
- (2) Title VIII of the Civil Rights Act of 1968, as amended;
- (3) Executive Order 01.01.1989.18 relating to drug and alcohol free workplaces;
- (4) Article 49B, Annotated Code of Maryland; and
- (5) The Americans with Disabilities Act of 1990, as amended.

05.05.03.15

.15 Program Administration.

A. Any action or decision required or permitted to be taken or made by the Department pursuant to the Act or these regulations may be taken by the Director of the Administration, or the Director of Multifamily Housing, or their designees.

B. The Department may terminate a grant or refuse to make additional disbursements under a grant agreement if it finds that the grantee is not complying with any of the requirements of the Program or the grant agreement.

C. The Department may establish from time to time operational handbooks or manuals governing matters relating to the Program including descriptive statements of Program procedures which do not directly affect the rights of the public, or the procedures available to the public.

05.05.03.16

.16 False Statements.

Any recipient who knowingly makes or causes to be made a false statement or report shall be subject to immediate termination of the housing assistance payment, in addition to the criminal penalties authorized by law.

05.05.03.17

.17 Waiver.

The Secretary may waive or vary particular provisions of these regulations to the extent that the waiver is not inconsistent with the Act if:

A. Conformance to the requirements of any federal, State, or local programs used in connection with a grant necessitates waiver or variance of a regulation; or

B. In the determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

05.05.03.18

.18 Severability.

The provisions of these regulations are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these regulations or the application of any provision to any person or circumstance is invalid does not affect the validity of the remaining provisions of the regulations or any other application of these regulations, and the remaining regulations shall have full force and effect as if no judgment had been entered.

05.05.03.9999

Administrative History

Effective date:

Regulations .01—.17 adopted as an emergency provision effective February 23, 1987 (14:6 Md. R. 707); emergency status extended at 14:20 Md. R. 2138

Regulations .01—.17 adopted effective November 30, 1987 (14:24 Md. R. 2554)

Chapter recodified from COMAR 05.01.29 to COMAR 05.05.03

Regulation .03B amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .06A amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .06A amended as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; amended permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .06B amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .06D adopted effective February 20, 1989 (16:3 Md. R. 340)

Regulation .07B amended as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; amended permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .08B amended as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; amended permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .08E repealed effective February 20, 1989 (16:3 Md. R. 340)

Regulation .09A amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .09B amended as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; amended permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .09C amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .09E adopted as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; adopted permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .10 amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .11D amended effective February 20, 1989 (16:3 Md. R. 340)

Regulation .12 amended as an emergency provision effective July 1, 1995 (22:14 Md. R. 1044); emergency status expired January 1, 1996; amended permanently effective March 25, 1996 (23:6 Md. R. 474)

Regulation .13 amended effective February 20, 1989 (16:3 Md. R. 340)

Chapter revised effective June 28, 1999 (26:13 Md. R. 1018)

Regulation .05B amended effective September 12, 2005 (32:18 Md. R. 1518)

Regulation .06A, D amended effective April 30, 2001 (28:8 Md. R. 759)

Regulation .09B amended effective April 30, 2001 (28:8 Md. R. 759)

Regulation .09C amended effective September 12, 2005 (32:18 Md. R. 1518)

Regulation .13 repealed and new Regulation .13 adopted effective April 30, 2001 (28:8 Md. R. 759)

Chapter revised effective February 26, 2007 (34:4 Md. R. 398)

Chapter revised effective April 6, 2009 (36:7 Md. R. 521)